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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,078	11/07/2001	Mark Oscar Worthington	BTI2 00102101(USP)US	4730

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EXAMINER	
BROWN, KHALED	
ART UNIT	**PAPER NUMBER**
2877	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N .	Applicant(s)	
	09/986,078	WORTHINGTON ET AL.	
	Examiner	Art Unit	
	Khaled Brown	2877	

-- The MAILING DATE of this c mmunication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 April 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9,11,12,14-16 and 18-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9,11,12,14-16 and 18-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 November 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-9,11,12,14-16 and 18-33 are still rejected under 35 U.S.C. 103(a) as being unpatentable over Margrey et al (US 6192320) in view of Gordon (US 6476907).

Re clms 1,5,7,11,15,19,20,33: Margrey et al discloses an interactive testing system and method for analyzing biological, chemical and biochemical samples, comprising: a central processing unit for controlling an analytical instrument (Margrey et al Col 4 lines 43-67), Margrey et al also states that the analytical instrument controlled can be any analytical instrument which can be made compatible with a computerized system (Margrey et al Col 10 line 65 - Col 11 line 2) and a means for allowing said central processing unit to communicate over a network (Margrey et al Col 5 line 66- Col 6 line 8 and Col 7 line 3) and that a node is connected with said network, said node is enabled to interact with said central processing unit and configured to evaluate any information (Margrey et al, node is "server" Col 9 lines 5-14). However, Margrey et al does not specifically state that the analytical instrument being controlled is a bio-disc drive. Gordon discloses an analytical instrument which is compatible with a computerized

system having a bio-disc having a sample (Gordon 50), a bio-disc drive (Gordon Fig 6) and a central processing unit for controlling said bio-disc drive (Gordon 41) which allows analysis of biochemical samples (Gordon Col 1 lines 15-18). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the analytical instrument of Gordon in the interactive testing system of Margrey et al because it would allow analysis of biochemical samples as suggested by Gordon (Gordon Col 1 lines 15-18).

Re clms 2,24,26: remotely controlled (Margrey et al Col 9 line 1)

Re clm 3: SW on bio-disk (Gordon Col 3 lines 23-30)

Re clm 4: node verifies authenticity (Margrey et al Col 6 lines 59-62)

Re clm 5: user terminal (Margrey et al Col 6 lines 9-11)

Re clms 8,9,12,18: transmitting information to the server and obtaining test result analysis (Margrey et al Col 6 lines 46-49)

Re clms 14,16,30,32: a web-page (Margrey et al Col 6 lines 2-3)

Re clms 21,22: local device processes (Margrey et al Col 9 lines 5-14)

Re clms 23,25: medical office or home (Margrey et al Col 8 lines 36-39)

Re clm 27: wireless communication (Margrey et al Col 6 line 6)

Re clms 28,31: encryption using TCP/IP (Col 11 lines 19-24)

Re clm 29: Intranet (Margrey et al Col 6 line 4)

Response to Arguments

Applicant's arguments filed 4-5-04 have been fully considered but they are not persuasive. The applicant argues that Godon does not teach using bio-disc information and that Margrey et al does not use a bio-disc drive. However

Gordon does disclose using bio-disc information. Gordon bio-disk drive is controlled by a computer which obviously has bio-disc information (Gordon 41) and authenticity is verified because computers tend to have logon pass words. Margrey has all ready been pointed out above by the examiner that Margrey et al does not disclose a bio-disc drive and the rational as to why it would be obvious to connect a bio-disc drive has been pointed out above. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shenk et al 6560546, Lappe et al 6514461, Gordon 6339473, Gordon 6327031 and Rothberg et al 6231812.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khaled Brown whose telephone number is 571-272-2411. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KB
June 11, 2004

Frank Font
Supervisory Patent Examiner
Art Unit 2877